

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Elizabeth Juanita Campbell

v.

Civil No. 07-cv-276-SM

Hooksett School District, et al.

O R D E R

On December 18, 2007, I issued an Order directing service in the above-captioned matter (document no. 7). I ordered service to be made on state defendants pursuant to the agreement on the acceptance of service. Because that agreement applies only in prisoner cases, service was not completed as ordered.

I now withdraw that portion of my December 18 Order directing service in accordance with the agreement on the acceptance of service and order Campbell to serve the state defendants in a manner consistent with Fed. R. Civ. P. 4. The office of the New Hampshire Attorney General has agreed to execute waivers of service of process for the state defendants if properly served consistent with the requirements of Fed. R. Civ. P. 4(d).

Accordingly, Campbell is ordered to either:

- (1) serve the state defendants by preparing summonses for each state defendant she wishes to name in this action and submitting them to the Clerk's office within thirty (30) days of the date of this order. Upon receipt of the completed summonses, the Clerk's office shall issue the summonses against defendants and forward to the United States Marshal for the District of New Hampshire (the "U.S. Marshal's office") the summonses and copies of the complaint (document nos. 1 & 3), the Report and Recommendation (document no. 6), my December 18 Order (document no. 7) and this Order. Upon receipt of the necessary documentation, the U.S. Marshal's office shall effect service upon Defendants. See Fed. R. Civ. P. 4(c)(2); or
- (2) pursue waivers of service of summons for the state defendants. If Campbell chooses to seek waivers of service of summons, she must do so consistently with the requirements of Fed. R. Civ. P. 4(d), and as described in my December 18 Order permitting service of the Hooksett defendants. Fed. R. Civ. P. 4(d)(2) requires that a plaintiff "notify [a] defendant of the commencement of the action and request that the defendant waive service of a summons" by: (A) directing a written notice and request directly to the defendant, if the defendant is an individual, or else to an officer or managing or general agent of a defendant corporation or association; (B) by first-class mail or other reliable means; (C) accompanied by a copy of the complaint and the identity of the Court where the complaint has been filed; (D) informing the defendant, in accordance with the rule, of the consequences of compliance and failure to comply with the request; (E) setting forth the date on which the request is sent; (F) allowing the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent; and (G) providing the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing. See Fed. R. Civ. P. 4(d).

If Campbell chooses to seek waiver of summons from the state defendants, she must notify the Court that she has requested a waiver of formal summons from each defendant within ten days of the date of this Order. Campbell must then follow the procedure set out by Fed. R. Civ. P. 4(d) to notify the Court as to whether the defendants have agreed to waive service of summons.

If any state defendant fails or refuses to waive service of summons, or if Campbell chooses to have the defendants served with a summons rather than to request a waiver, Campbell must return the completed summons forms to the Clerk's office within thirty days of the date of this Order, or within ten days of a defendant's refusal or failure to waive service of summons. Upon receipt of the completed summons forms, the Clerk's office is directed to issue the summons forms and forward to the United States Marshal for the District of New Hampshire (the "U.S. Marshal's office") the summonses, copies of the complaint (document no. 1), the Motion to Consolidate (document no. 3), the Motion for Injunctive Relief, the Report and Recommendation (document no. 6), the December 18 Order (document no. 7), and this Order. Upon receipt of the necessary documentation, the

U.S. Marshal's office shall effect service upon the defendants.
See Fed. R. Civ. P. 4(c)(2).

The defendants are instructed to answer or otherwise plead within twenty days of service if they are served by summons. See Fed. R. Civ. P. 12(a)(1)(A). If the state defendants waive service of summons under Fed. R. Civ. P. 4(d), they must answer within 60 days after the date when the request for waiver was sent. See Fed. R. Civ. P. 12(a)(1)(B).

Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on the Defendants by delivering or mailing the materials to them or their attorneys, pursuant to Fed. R. Civ. P. 5(b).

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: February 14, 2008
cc: Elizabeth Campbell, pro se